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Paper No.

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P. O. Box 272400  
Fort Collins, CO 80527-2400

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**NOV 04 2004**

In re Application of :  
Larrie A. Deardurff :  
Application No. 10/786,587 : ON PETITION  
Filed: February 24, 2004 :  
For: INKJET DYE DESIGN :

**OFFICE OF PETITIONS**

This is a decision on the Petition to Accord the Application a Filing Date as of the Date of the Divisional Application Under 37 CFR 1.182, filed October 12, 2004, requesting the application be accorded a filing date of February 24, 2004, including the specification.

The petition is **granted**.

The application was filed on February 24, 2004. However, on September 3, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without a specification.

Applicant responds with the instant petition wherein Applicant avers that the specification in the above-identified application was incorporated by reference to prior nonprovisional application no. 10/057,692.

Applicants are advised that a petition is not necessary in this instance to add the specification. The specification may be entered by the primary examiner without a petition so long as the specification is not new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

. . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such

specifically enumerated prior application or applications are 'hereby incorporated by herein by reference.' The statement may appear in the specification or in the application transmittal letter . . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of February 24, 2004, using the application papers filed on that date.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
Derek L. Woods

Attorney Advisor  
Office of Petitions